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NATIONAL ASSOCIATION OF THE DEAF

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SEP 16 1997

FCC MAIL ROOM

September 11, 1997

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

AUDIO SERVICES
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Re: Ex Parte Contact, CC Docket No. 94-102

Dear Mr. Caton:

The attached document was faxed to Meryl Icove of the FCC's Disabilities Issues Task Force, and to Wiley, Rein, and Fielding, on September 11, 1997.

Sincerely,

Karen Peltz Strauss
Legal Counsel for Telecommunications Policy

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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In the Matter of)	
)	
Revision of the Commission's Rules)	
to Ensure Compatibility with)	CC Docket No. 94-102
Enhanced 911 Emergency Calling Systems)	
for Police Services)	

**OPPOSITION TO REQUEST FOR EXTENSION OF
EIGHTEEN MONTHS TO IMPLEMENT E911/TTY COMPATIBILITY
REQUIREMENT FOR WIRELESS OPERATORS**

The National Association of the Deaf ("NAD") and the Consumer Action Network (CAN) respectfully submit their opposition to the "Request for Extension of Time to Implement E911/TTY Compatibility Requirement for Wireless Operators," submitted by the E911 Coalition (Coalition). As is demonstrated by the following events, the Coalition has been aware of its obligation to provide wireless access for text telephone (TTY) users for quite some time. First, the Federal Communications Commission (FCC or Commission) released its final Report and Order requiring TTY access nearly fourteen months ago, on July 26, 1996. Second, the more general obligation to make these services accessible dates back to February 8, 1996, with the passage of Section 255 of the Communications Act. The 1996 Act created a requirement, effective upon enactment, for telecommunications service providers and manufacturers to make their services and equipment accessible to individuals with disabilities, and to ensure that these services and equipment are compatible with specialized customer premises equipment, such as

TTYs. Finally, even before that, *in 1994*, the wireless industry was put on notice about the need to ensure compatibility between TTYs and E911 calling systems, in the FCC's initial Notice of Proposed Rulemaking in this docket. "Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems," Notice of Proposed Rulemaking, at ¶54 (released Oct. 19, 1994). Yet now, as many as *three years later*, the wireless industry has come forth and requested an eighteen month extension of time to achieve these long standing legislative and regulatory directives.

The arguments put forth by the Coalition to defend its request for more time cannot withstand scrutiny. Among these arguments is the suggestion that manufacturers of wireless equipment have been busy with other, "competing demands," including "recent Section 255 proceedings intended to address wireless compatibility issues for Americans with disabilities more broadly." However, those efforts, presumably a reference to participation with the Telecommunications Access Advisory Committee (TAAC) to develop guidelines for accessible telecommunications equipment, were not directly related to the very specific need to make E911 services accessible to TTY users through wireless communications, and participation in the TAAC should not be offered as an excuse for noncompliance with the Report and Order in this docket. In any event, participation in the TAAC was concluded as many as eight months ago, in January of 1996, when the TAAC prepared its final report to the Architectural and Transportation Compliance Board.

Put simply, the NAD and CAN remain unconvinced that sufficient justification has been put forth to excuse the delay for noncompliance with the FCC's E911/TTY directive. Although the Request refers to some projects ongoing on this matter, there appears to be little explanation provided in the Request for why the time already allotted for resolving this problem has been

insufficient. We urge the FCC not to dismiss the failure to meet its compliance deadlines lightly; rather clear and detailed explanations for the failure to comply should be set forth before a request for an extension of time, such as the one proposed here, is granted.

The industry has scheduled an upcoming forum to enable an information exchange to take place among manufacturers and individuals with hearing and speech disabilities on the E911/TTY compatibility question. Although we are pleased to see that this forum will take place, it is not clear why such a conference was not scheduled long before now. We do not doubt that achieving E911/TTY compatibility requires consensus among multiple industries. For this very reason, efforts should have been initiated early on, rather than a month before the Report and Order is to take effect, to achieve this consensus.

Similarly, while the Request refers to “significant technical issues” that “may exist with respect to passing TTY signaling through the vocoders and networks used by all digital wireless technologies,” it does not set forth what these technical issues may be, other than to refer to a potential problem with the transmission of TTY tone signals through the “vocoders” used to translate analog speech into a digital form. However, the Request acknowledges that even this problem, raised in the industry’s Petition for Reconsideration of the FCC’s Order, “may be less significant than originally thought.”

The Request does list some matters that must be resolved before E911/TTY compatibility with digital phones can be implemented. Namely, the Request refers to accessories needed to enable TTY users to use wireless devices, the possible need for TTY manufacturers to retrofit their products, and the lack of interface with CDMA wireless phones which do not have headset connectors. However, the Request does not provide concrete or specific reasons for why a full

eighteen month extension is needed to resolve these remaining issues. Accordingly, we oppose the request for a full eighteen months, and propose, instead, that the industry be granted a maximum of nine additional months, until July 1, 1998, to achieve compliance with the E911 Order for TTY wireless access. This will provide ample time - nearly twenty-four months from the time of the Report and Order - for the Coalition to comply with its directives. Additionally, to reduce misunderstandings about the nature and extent of the industry's continued efforts to resolve this matter, we propose that the FCC direct the Coalition to submit reports every three months to the Commission, setting forth the research conducted and specific efforts undertaken to achieve E911/TTY wireless compatibility. Toward the success of these efforts, we request that the FCC further direct the Coalition to confer directly with deaf and hard of hearing consumers, and organizations representing deaf and hard of hearing consumers, who have knowledge about telecommunications access issues and issues related to the problems associated with TTY usage.¹ To date, there has been little input from these consumers in the effort to resolve the TTY wireless issue.²

Finally, the NAD and CAN propose that the FCC use available enforcement mechanisms to ensure compliance with the E911 Order at the conclusion of the nine month extension. In

¹ Both the NAD and CAN stand ready to provide names of such individuals upon request. Expenses related to the participation of deaf and hard of hearing individuals in these efforts should be covered by the industry parties subject to the Commission's Report and Order.

² For example, although the flyer for the upcoming CTIA forum on this issue refers to the fact that the forum will present comments by the "National Association for the Deaf" [sic], in fact, no one from the NAD was contacted about the forum by the industry. Rather, a consumer organization alerted the NAD as to the existence of the conference, and only after the NAD contacted the conference coordinator was the NAD added to the list of conferees.

prior pleadings, we have already set forth the urgent need to provide emergency access to E911 calling systems for all Americans, including deaf and hard of hearing persons who use TTYs. NAD's Reply in Support of Opposition to Petitions for Reconsideration (Oct. 18, 1996).³ Accordingly, we strongly urge the imposition of fines and other enforcement remedies where members of the industry fail to comply with the FCC's mandates at the end of the nine month period.

Respectfully submitted,



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September 11, 1997

³ This document is incorporated by reference, and attached to this Opposition.

Attachment

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	RM-8143
Enhanced 911 Emergency Calling Systems)	

REPLY IN SUPPORT OF OPPOSITION TO PETITIONS FOR RECONSIDERATION

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October 18, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	RM-8143
Enhanced 911 Emergency Calling Systems)	

REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF THE DEAF

I. Introduction

The National Association of the Deaf ("NAD") submits this reply in support of the Opposition and Response of the Texas Advisory Commission on State Emergency Communications (Opposition), filed in response to petitions for reconsideration in the above referenced docket. At least three such petitions had requested the Federal Communications Commission (FCC or Commission) to delay and/or modify the FCC's mandate for covered wireless carriers to transmit TTY calls to E911 services within twelve months.

In reply comments submitted in response to the Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 94-102 (released July 26, 1996) ("R&O"), the National Association of the Deaf reported on the need to ensure that deaf and hard of hearing individuals who use TTYs have the same access to 911 emergency services as do all other Americans. Similarly, our comments echoed the statements made in the Commission's own Report and Order on the importance of ensuring access to the enhanced features of E911 systems for calls initiated through mobile services, and further noted that deaf and hard of hearing persons must also be able to

benefit from the increased accuracy and reliability that these automatic number identification (ANI) and automatic location identification (ALI) features can offer.

II. The Commission Should Not Modify its TTY Compatibility Requirements.

Petitioners raise concerns about their ability to resolve the technical issues necessary to achieve compliance with the Commission's TTY compatibility requirements within the one year period established by the new R&O. See e.g. PCIA petition at 11, TIA petition at 13.¹ The request for an extension of time for compliance suggests that wireless industry groups are first learning of the need to ensure access for TTY users. Yet, the Commission's mandate for TTY access to enhanced 911 services via radio transmission services is hardly a surprise for the wireless industry. Rather, the final rule which produced this mandate was first initiated as many as two years ago in the Notice of Proposed Rulemaking issued in this docket. Revision of the Commission's rules to ensure compatibility with enhanced 911 emergency calling systems at ¶54 (released October 19, 1994). Having been on notice for the past two years, the industry should not be permitted to come in at the eleventh hour and secure an unspecified amount of additional time to provide this very basic access.

Past experience has shown the adverse consequences that can result when there is no specific deadline to achieve accessibility for a particular product or service. This is perhaps best demonstrated by the difficulties now being encountered with respect to the failure of the wireless

¹ TIA also suggests that the Commission is attempting to extend the compatibility requirements beyond what Congress intended in Section 255 of the Telecommunications Act. TIA Petition at 14. In support of this assertion, TIA states that Section 255 only requires compatibility "if readily achievable." Yet the record in this case hardly supports a premature finding that the transmission of TTY calls through radio communications services is not readily achievable, especially when the industry groups responsible for achieving this access themselves admit that they have done so little to resolve the technical issues to date. Moreover, TIA itself states that "solutions to TTY/wireless compatibility are possible." TIA Petition at 14.

industry to ensure that digital telephones are compatible without interference for hearing aid users. While consumers greatly appreciate the efforts which these industry groups are now taking to eliminate these compatibility and interference problems, the failure to make those telephones accessible from the outset has and will continue to result in many years' delay in the use and enjoyment of these phones for individuals who use hearing aids. Conversely, where federal deadlines for access have been implemented, results have been beneficial for both consumers and industry. For example, the Television Decoder Act of 1990, 47 U.S.C. §§303,330, and its implementing regulations established a clear timeline for the incorporation of decoder capabilities into all televisions sets. At the time that the Decoder Act was being contemplated by Congress, many in the television manufacturing industry protested the idea of a definite time by which the decoder requirement would go into effect. Yet when the deadline was in fact established, full compliance by all industry members was achieved, providing deaf and hard of hearing viewers with essential access to some of the television programming enjoyed by all Americans.

Omnipoint goes even further than other petitioners, to request modification of the Commission's TTY compatibility Order in a way that would virtually eliminate emergency access for TTY users through wireless services. First, Omnipoint proposes that TTY calls to a 7-digit emergency number not be subject to the ANI and ALI features required by the new Commission rules. Omnipoint Petition at 9. In support of this proposal, Omnipoint states: "[n]ot all PSAPs accept TTY calls at the 911 number. Instead, some PSAPs require TTY calls to be directed to a standard 7-digit number." *Id.* at 9.

In fact, however, federal law does require all 911 systems to be directly accessible to TTYs. 28 C.F.R. §35.162. In promulgating that requirement, the Department of Justice

explained why reliance on 7-digit numbers for TTY users - where 911 access is otherwise available - is not permitted:

The requirement for direct access disallows the use of a separate seven-digit number where 911 service is available. Separate seven-digit emergency call numbers would be unfamiliar to many individuals and also more burdensome to use. A standard emergency 911 number is easier to remember and would save valuable time spent in searching in telephone books for a local seven-digit emergency number.

Americans with Disabilities Handbook, EEOC/DOJ at II-71.

We support the Opposition to Omnipoint's petition because it is critical for TTY users to have the same access to enhanced 911 services as is available to all Americans. As we noted in our reply comments in this proceeding, for deaf, hard of hearing, or speech impaired callers, ANI and ALI are not only helpful; often they can make the critical difference between life and death in an emergency situation. This is because, among other things, with these enhanced services, 911 personnel have immediate information as to whether the caller is deaf, hard of hearing and/or speech impaired, which can eliminate time wasted trying to establish voice contact with the caller.

For the same reasons that TTY users need access to ANI and ALI - i.e. the need to facilitate and expedite emergency response time - the second proposal set forth in Omnipoint's petition is equally unworkable in an emergency setting. Specifically, Omnipoint suggests that the Commission allow the use of handset keypad-originated text messages - or Short Message Service (SMS) - to achieve compliance with the mandate to transmit 911 calls from individuals with speech or hearing disabilities. As described by Omnipoint, SMS enables a written message to be sent using the keypad, ascribing a different letter for each number of the keypad according to the number of times the number is pressed. Put simply, it is hardly conceivable that an

individual is going to have the presence of mind to tap out an appropriate message in this fashion in the throes of an emergency situation. Indeed, time and again, such a messaging service has been rejected as being too cumbersome even for ordinary calls. For fairly obvious reasons this type of encoded messaging would be absurd in an emergency situation where emotions and stress would blur one's ability to tap out a message in code.²

III. Conclusion

As noted in the Opposition filed by the Texas Advisory Commission on State Emergency Communications, , the FCC appropriately recognized that TTY access to 911 services is critical to the public safety of the millions of Americans who have hearing and speech disabilities. Opposition at 9, citing R&O ¶51. The Opposition is correct in stating that the petitions now before the Commission can only hinder recent legislative and regulatory trends to finally create "an equal playing field in telecommunications for all people in the United States." Opposition at 11.

In an effort to close the telecommunications gap, the FCC appropriately issued its mandate for wireless companies to transmit TTY calls to 911 services within one year. The FCC's Order is consistent with and essential for the proper implementation of Title II of the Americans with Disabilities Act, which requires full and complete access to 911 services via TTYs, and Section 255 of the Telecommunications Act, which requires providers of telecommunications services to make their services accessible to individuals with disabilities. For these reasons and the reasons set forth above, we support the Opposition and strongly urge the Commission to reject the

² Moreover, as described by Omnipoint, SMS would appear to allow only one way messaging, from the TTY user to the 911 dispatcher. This would not permit the two way dialogue that is often critical in life threatening situations.

petitions for reconsideration on the TTY compatibility issue.

Respectfully submitted,

A handwritten signature in cursive script that reads "Karen Peltz Strauss".

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October 18, 1996